

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

ALANA K. BULLIS,  
Plaintiff,

v.

MARTHA A. SANDERLIN, individually and  
as a marital community,  
Defendant.

Case No. C05-5080RJB

ORDER

This matter comes before the court on defendant's motion for continuance. Dkt. 27. The court has considered the relevant documents and the remainder of the file herein.

On August 5, 2005, defendant filed a Motion to Dismiss Pursuant to FRCP 12(b)(6) and for Terms. Dkt. 19. On August 11, 2005, plaintiff filed Plaintiff's Motion for Partial Summary Judgment as to Defendant's Liability Under FRCP 56(a). Dkt. 20. On August 12, 2005, plaintiff filed Plaintiff's Motion to Enlarge Time to Join Parties and to Enlarge Time to File Motions Related to Discovery. Dkt. 22. On August 17, 2005, the court converted defendant's motion to dismiss to a motion for summary judgment, and noted the motion for September 2, 2005. Dkt. 23.

On August 31, 2005, defendant filed a response to plaintiff's motion for partial summary judgment. Dkt. 24. On that same day, defendant filed an amended response to plaintiff's motion for partial summary judgment. Dkt. 25.

On September 1, 2005, defendant filed a motion for continuance (Dkt. 27) that is the subject of this order. In this motion, defendant requests that the court continue plaintiff's motion for partial summary

1 judgment until September 9, 2005. Defendant's counsel contends that, through an administrative error, he  
2 believed that plaintiff's motion for partial summary judgment was to be noted for September 9, 2005 rather  
3 than September 2, 2005; and that he filed his response to plaintiff's motion for partial summary judgment  
4 on August 31, 2005, with the September 9, 2005 noting date in mind. Defendant's counsel  
5 noted this motion for continuance for September 2, 2005, one day after the motion had been filed.  
6 Pursuant to Local Rule CR 7(d)(2)(A), a motion for relief from a deadline or limit imposed by an order,  
7 federal rule or local rule may be noted for consideration no earlier than seven judicial days after filing. In  
8 accord with the local rule, this motion for continuance should have been noted for consideration no earlier  
9 than seven judicial days after the motion was filed. Nonetheless, the procedural posture of this case does  
10 not need to become more complicated than it has already become. In an effort to provide for full briefing  
11 on the merits of the issues, the court will grant defendant's motion for continuance and will renote  
12 defendant's Motion to Dismiss Pursuant to FRCP 12(b)(6) and for Terms/motion for summary judgment  
13 (Dkt. 19), Plaintiff's Motion for Partial Summary Judgment as to Defendant's Liability Under FRCP  
14 56(a)(Dkt. 20), and Plaintiff's Motion to Enlarge Time to Join Parties and to Enlarge Time to File Motions  
15 Related to Discovery (Dkt. 22), so as to afford both parties the opportunity to respond to the merits of the  
16 motions.

17 It also appears from the record that defendant filed a response to plaintiff's motion for partial  
18 summary judgment (Dkt. 24) in error. It appears that the amended response (Dkt. 25) is the document that  
19 defendant intends that the court consider as a response to plaintiff's motion for partial summary judgment.  
20 Accordingly, unless defendant promptly notifies plaintiff and the court to the contrary, the court will  
21 consider defendant's amended response to plaintiff's motion for partial summary judgment (Dkt. 25), and  
22 will not consider the earlier filed response to plaintiff's motion for partial summary judgment (Dkt. 24).

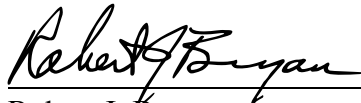
23 On September 2, 2005, a document that was received by the Clerk that is apparently a copy of a  
24 grievance filed with the Washington State Bar Association by plaintiff against opposing counsel in this  
25 case. This document concerns a separate action with the WSBA and will not be filed in this case.  
26  
27  
28

1 Therefore, it is hereby

2 **ORDERED** that defendant's motion for continuance (Dkt. 27) is **GRANTED**. Defendant's  
3 Motion to Dismiss Pursuant to FRCP 12(b)(6) and for Terms/motion for summary judgment (Dkt. 19),  
4 Plaintiff's Motion for Partial Summary Judgment as to Defendant's Liability Under FRCP 56(a) (Dkt. 20),  
5 and Plaintiff's Motion to Enlarge Time to Join Parties and to Enlarge Time to File Motions Related to  
6 Discovery (Dkt. 22) are **RE-NOTED** for consideration on the court's September 16, 2005 calendar. The  
7 parties may file responses and replies to the pending motions as set forth in Local Rule CR 7.

8 The Clerk is directed to send uncertified copies of this Order to all counsel of record and to any  
9 party appearing *pro se* at said party's last known address.

10 DATED this 6<sup>th</sup> day of September, 2005.

11   
12 Robert J. Bryan  
13 United States District Judge